

### **REMARKS**

In response to the above-identified Final Office Action, Applicants amend claims 1, 9, and 14 and cancel claims 2, 10 and 15. Applicant does not add any new claims. Accordingly, claims 1, 3-9, 11-14, 16 and 17 remain pending.

#### **I. Drawings**

Formal drawings on paper will be submitted concurrently by Patent Reproduction, Inc., the draftsman of the Applicant. Approval is requested.

#### **II. Claims Rejected Under 35 U.S.C. § 112, first and second paragraph**

The Examiner has rejected claim 10 under 35 U.S.C. § 112, first paragraph and second paragraph, as being unenabled and indefinite. Specifically, the Examiner has objected to the language "simplified navigation interface." Applicant has cancelled claim 10 and amended claim 9 such that the term "simplified navigation interface" is not utilized. Accordingly, these rejections are now moot.

#### **III. Claims Rejected Under 35 U.S.C. § 102**

Claims 1, 3-5, 7-14, 16 and 17 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,851,149 issued to Xidos, et al. (hereinafter "Xidos").

To anticipate a claim, the Examiner must show that the cited references teach or suggest each of the elements or the claims. In regard to independent claims 1, 9 and 14, these claims have been amended to include the element of a matrix format. The Examiner acknowledges that Xidos does not teach the use of a matrix format. Thus, Xidos does not teach each of the elements of claims 1, 9 and 14 as amended. Accordingly, reconsideration and withdrawal of the anticipation rejection of claims 1, 9, and 14 are requested.

In regard to claims 3, 4, 5, 7, 8, 11-13, 16 and 17, these claims depend from independent claims 1, 9 and 14 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to these independent claims, these claims are not anticipated by Xidos.

Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

#### IV. Claims Rejected Under 35 U.S.C. § 103

Claims 2 and 15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Xidos in view of U.S. Patent No. 6,312,336 issued to Handelman, et al. (hereinafter "Handelman").

To establish a *prima facie* case of obviousness, the Examiner must show that the cited references combined teach or suggest each of the elements of a claim. Claims 2 and 15 have been cancelled but elements of these claims have been incorporated into independent claims 1, 9 and 14. Specifically, the element of a matrix format for interpreting control input or providing a set of game play control options has been added into these claims. The Examiner acknowledges that Xidos does not teach the display of a game or a matrix format and relies on Handelman to teach these elements of the claims. However, as previously noted by the Applicant, Handelman does not teach displaying a game, rather it teaches a game guide. See Abstract, Handelman. Applicant has been unable to discern any part of Handelman that teaches displaying a set of game play control options or interpreting control input according to a matrix interface to play a game on a television. Thus, Applicant believes that Xidos in view of Handelman does not teach or suggest each of the elements of claims 1, 9 and 14.

Further, in regard to the Examiner's argument that the use of matrix format is an aesthetic design choice, the Examiner states that "it makes no difference where control options are located, they function the same way." Applicant disagrees. How control input is interpreted and handled is entirely dependent on the type and layout of the interface that is used. For example, a matrix interface allows for a one to one relationship between input from the controller and displayed control options whereas layouts and interfaces such as hyperlinks on a standard web page require the determination of the position of the pointer on the screen and interpretation of control input

based on the tracking of the screen position of the pointer. Thus, layout of the screen and the type of interface utilized are not merely aesthetic design choices but rather are directly tied to the functionality of an interface. The Examiner's reliance on *In Re Seid*, 73 USPQ 431 (CCPA 1947) is therefore inapposite. The Court held *In Re Seid* "that matters related to *ornamentation only* which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art" (Emphasis added). However, as noted previously, a layout of the interface is not mere ornamentation but is functional and thus not an aesthetic design choice. See also MPEP § 2144.04(I). Aesthetic design choice would not be a proper basis modifying Xidos and therefore a *prima facie* case of obviousness for claims 1, 9 and 14 cannot be established on the cited references and aesthetic design choice.

Claim 6 stands rejected under 35 U.S.C. § 103 as being obvious over Xidos in view of "Know When Your Buddies Are Online" AOL, 1997 ("AOL").

Claim 6 depends from independent claim 1 and incorporates the limitations thereof. Thus, at least for the reasons mentioned above, Xidos does not teach each or suggest each of the elements of claim 6. Further, the Examiner has not relied on AOL for teaching the elements of a matrix interface format as claimed in claim 6. Accordingly, reconsideration and withdrawal of the obviousness rejection of claim 6 are requested.

**CONCLUSION**

In view of the foregoing, it is believed that all claims now pending, namely claims 1, 3-9, 11-14, 16 and 17 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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**CERTIFICATE OF TRANSMISSION:**

*I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office on January 27, 2005.*

  
Lillian E. Rodriguez

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